IN THE HIGH COURT OF JUDICATURE AT BOMBAY

INSOLVENCY JURISDICTION

PETITION NO.169 OF 2004

Re: Bharat C.Mehta. ... Deceased Debtor.

Exparte :

The Bharat Co-op.Bank (Mumbai) Ltd. ..Pt.Creditor.

And

Smt.Niru Bharat Mehta & Ors. ... Respondents.

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Mr.G.R.Mehta for the Petitioning Creditor.

Mr.Dilip Rai i/b. Raval Shah & Co. for Legal Heirs of Debtor.

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CORAM : DR.D.Y.CHANDRACHUD, J.

April 5, 2005.

P.C.:

This Petition has been instituted under the provisions of Section 108 of the Presidency Town Insolvency Act, 1909 for the administration in insolvency of the estate of the deceased Judgment Debtor by the name of Bharat Chimanlal Mehta. The estate of the deceased debtor is liable to pay an

amount aggregating to Rs.3,04,86,916.24 as of 1st October 2004 on the basis of orders passed in recovery proceedings under Section 101 of the Maharashtra Co-operative Societies Act, 1960. Two orders have been passed by the Assistant Registrar, Co-operative Societies in R.C.Application 339/02 and R.C.Application No.439/02 on 27th August 2002. The disclosure which has been made of the assets of the deceased will show that there is no reasonable probability within the meaning of sub-section (2) of Section 108 that the estate will be sufficient for the payment of debt owing by the deceased. A statement has been made that no proceedings for the administration of the estate of the deceased has been instituted or is pending.

Though this petition was served as far back as in January 2005, no affidavit in reply to the petition has been filed. In the circumstances, the conditions requisite for an order under Section 108(2) have been demonstrated to exist. The Petition shall accordingly stand absolute in terms of prayer clause (a). The Respondents shall present themselves before the Official Assignee when called upon to do so, so as to facilitate necessary steps in accordance with law being adopted by the Official Assignee.

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